April 7, 2005. The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

The Section 102 rejection of claim 76 over Watanabe (U.S. Patent No. 5,610,009) is again traversed. To the extent not obviated by the above-noted amendments, the Section 103 rejection of claims 68-70, 73-74, 76, 79, 87-88, 91 and 95-96 over Lanford (Virology 1993, Vol. 197, pp 225-235), Ralston (Journal of Virology 1993, Vol. 67, pp 6753-6761), Watanabe and Ford (Protein Expression and Purification 1991, Vol. 2, pp 95-107) is traversed. Reconsideration and withdrawal of the rejections are again requested in view of the comments of record as well as the following further remarks.

The Examiner appears to appreciate that construct pHCV419 of the cited patent does not anticipate the invention of claim 76 or form a basis for the above-recited obviousness rejection.

The Examiner is now understood to rely on the construct pHCV422 of Watanabe as a basis for relying on the reference and reject the noted claims.

The applicants urge the Examiner to appreciate that Figure 4 of the cited patent clearly describes that construct pHCV422 of Watanabe expresses part of E1 and part of E2 as a fusion protein.

Presumably this is outside the scope of the elected invention in the present application. The Examiner is reminded that the present applicants have received and responded to three restriction requirements (i.e., Office Action dated July 23, 2002; November 5, 2002 and February 25, 2003) during a "confused, protracted prosecution history" (see, Decision on Petition of TC1600 Group Director Jasemine Chambers

mailed November 5, 2003) wherein the Examiner appears to have consistently made a distinction between E1, E2 and E1/E2 proteins. Where required, the applicants consistently elected E1 proteins.

The Examiner has therefore asserted in multiple restriction requirements that the subject matter relating to E1 proteins and E2 proteins or E1-E2 proteins are separately patentable.

The Examiner's present reliance on an E1-E2 fusion protein (i.e., pHCV422 of Watanabe) to reject claims (such as claim 76) which only include E1 proteins is contrary to the protracted file history of the present application.

Watanabe clearly make a distinction between E1 and E2 in Figure 4 wherein, for example, pHCV420 and pHCV421 are characterized by where E1 and E2 may be found (i.e., in the cell lysates or culture media). Moreover, lines 36-42 of column 13 of the patent clearly disclose pHCV422 as a construct comprising the APP leader sequence, amino acids 192-279 of E1 and amino acids 393-654 of E2.

Watanabe fails to teach each and every aspect of claim 76. Claim 76 is novel over Watanabe.

The claims are patentable over the cited art, individually and/or in combination. Withdrawal of the Section 102 and Section 103 rejections are requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: _____
B. J. Sadoff
Reg. No. 36,663

BJS:
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100